

JFL
**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

4/400
EUGENE HOLZER,
Plaintiff,

v.

PARTY CITY HOLDCO, INC.
Defendant.

CIVIL ACTION NO. _____

99 5470

COMPLAINT AND JURY DEMAND

FILED

NOV 21 2019

KATE BARKMAN, Clerk
By _____ Dep. Clerk

I. PRELIMINARY STATEMENT:

1. This is an action for an award of damages, attorneys' fees and other relief on behalf of the Plaintiff, Eugene Holzer ("Plaintiff Holzer"), a former employee of the Defendant, Party City Holdco, Inc. ("Defendant") who has been harmed by the Defendant's discriminatory employment practices.

2. This action is brought under the Age Discrimination in Employment Act, 29 U.S.C. §621 et seq. ("ADEA"), and the Pennsylvania Human Relations Act, 43 P.S. §951 et seq. ("PHRA").

II. JURISDICTION AND VENUE:

3. The jurisdiction of this Court is invoked, and venue is proper in this district, pursuant to 28 U.S.C. §§1331 and 1391, as Plaintiff Holzer's claims are substantively based on the ADEA.

4. The supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1367 to consider Plaintiff Holzer's claims arising under the PHRA.

5. All conditions precedent to the institution of this suit have been fulfilled and Plaintiff Holzer has satisfied all other jurisdictional prerequisites to the maintenance of this action. On August 26, 2019, a Notice of Right to Sue was issued by the Equal Employment Opportunity Commission (“EEOC”) and this action has been filed within ninety (90) days of receipt of said notice.

III. PARTIES:

6. Plaintiff, Eugene Holzer (“Plaintiff Holzer”), is a fifty-six (56) year old individual and citizen of the Commonwealth of Pennsylvania, residing therein at 1090 Greenleaf Drive, Bethlehem, Pennsylvania 18017.

7. Defendant, Party City Holdco, Inc. (“Defendant”), is a corporation maintaining a place of business located at 601 Baltimore Pike, Springfield, Pennsylvania 19064.

8. At all times relevant hereto, Defendant was acting through its agents, servants, and employees, who were acting within the scope of their authority, course of employment, and under the direct control of the Defendant.

9. At all times material herein, the Defendant has been a “person” and “employer”, as defined by the ADEA and PHRA, and has been, and is, subject to the provisions of each said Act.

IV. STATEMENT OF FACTS:

10. Plaintiff Holzer, a fifty-six (56) year old individual, was employed by Defendant from on or about July 30, 2018 until on or about January 15, 2019, the date his termination.

11. By way of background, Plaintiff Holzer was employed by Party City Management Company ("PC Mgmt. Co."), from on or about May 15, 1995 until on or about July 26, 2018.

12. Plaintiff Holzer began his employment with PC Mgmt. Co. in the position of Store Manager and earned two (2) promotions during his 24 year tenure of employment. At the time of his separation, Plaintiff Holzer held the position of Director of Operations/District Manager.

13. In or about February of 2018, Plaintiff Holzer learned from Phil Nasuti ("Nasuti"), Owner, PC Mgmt. Co., that he was considering the sale of all 16 franchise stores under PC Mgmt. Co.'s ownership to Defendant.

14. Thereafter, in or about May of 2018, Plaintiff Holzer learned from Michael Bush ("Bush"), Controller, PC Mgmt. Co., that Nasuti had decided to move forward with the sale of the franchise stores. However, Bush assured Plaintiff Holzer that his employment was secure and that he would continue his employment with Defendant following said sale.

15. In or about July of 2018, during a corporate meeting attended by Nasuti, Bush, and Michael Brand ("Brand"), Co-Owner, Plaintiff Holzer was again assured that his employment would continue with Defendant.

16. On or about July 25, 2018, mere days prior to the sale of PC Mgmt. Co., Plaintiff Holzer learned from Ed Roldan ("Roldan"), Senior Manager, that Defendant had replaced him in his position as District Manager with Danielle Sundermeier

(“Sundermeier”), a significantly less experienced, less qualified individual in her thirties (30s).

17. Despite Defendant’s assurances that Plaintiff Holzer would continue in his position following the sale, Defendant instead hired Plaintiff Holzer to the seasonal and temporary position of Senior Operations Manager.

18. Upon learning of the drastic change in position, Plaintiff Holzer attempted to contact Nasuti, Bush, and Brand to obtain an explanation. However, none of the aforesaid individuals replied.

19. The following day, Justin Charpentier (“Charpentier”), Corporate Employee, notified Plaintiff Holzer that his new position he would not be eligible for employee benefits. Charpentier further stated that Defendant could retain Plaintiff Holzer beyond January should a position be available.

20. Thereafter, Plaintiff Holzer made numerous efforts to obtain permanent employment with Defendant however Defendant refused to afford Plaintiff Holzer any interviews for a permanent position.

21. On or about January 15, 2019, Defendant terminated Plaintiff Holzer’s employment.

22. Significantly, the only individuals employed in management roles with PC Mgmt. Co. who were not offered permanent positions with Defendant were Plaintiff Holzer, age fifty-five (55), and Daniel Dodd (“Dodd”), age fifty-eight (58).

23. Plaintiff Holzer believes and avers that Defendant’s articulated reason for failing to hire him for a permanent position and terminating his employment was

pretextual and that Defendant actually terminated and failed to hire him because of his age (55).

COUNT I
(ADEA - Age Discrimination)
Plaintiff Holzer v. Defendant

24. Plaintiff Holzer incorporates by reference paragraphs 1 through 23 of this Complaint as though fully set forth at length herein.

25. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Holzer to discrimination on the basis of his age, and in knowing or showing reckless disregard for whether its conduct was prohibited by statute, constituted willful violations of the ADEA.

26. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Holzer sustained permanent and irreparable harm, resulting in the loss of his employment, which caused him to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

COUNT II
(PHRA - Age Discrimination)
Plaintiff Holzer v. the Defendant

27. Plaintiff Holzer incorporates by reference paragraphs 1 through 26 of this Complaint as though fully set forth at length herein.

28. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Holzer to discrimination on the basis of his age, constituted violations of the PHRA

29. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Holzer sustained permanent and irreparable harm, resulting in the loss of his employment, which caused him to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

30. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Holzer suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

PRAYER FOR RELIEF

31. Plaintiff Holzer incorporates by reference paragraphs 1 through 30 of this Complaint as though fully set forth at length herein.

WHEREFORE, Plaintiff Holzer requests that this Court enter judgment in his favor and against the Defendant, and Order that:

a. Defendant compensate Plaintiff Holzer with a rate of pay and other benefits and emoluments of employment to which he would have been entitled had he not been subjected to unlawful discrimination;

b. Defendant compensate Plaintiff Holzer with an award of front pay, if appropriate;

c. Defendant pay to Plaintiff Holzer punitive damages, liquidated damages, compensatory damages for future pecuniary losses, pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses as allowable;

- d. Defendant pay to Plaintiff Holzer pre and post judgment interest, costs of suit and attorney and expert witness fees as allowed by law;
- e. The Court award such other relief as is deemed just and proper.

JURY DEMAND

Plaintiff Holzer demands trial by jury.

SIDNEY L. GOLD & ASSOC., P.C.

By: 

/s/ Sidney L. Gold, Esquire SG1387

SIDNEY L. GOLD, ESQUIRE

I.D. No.: 21374

1835 Market Street, Suite 515

Philadelphia, PA 19103

(215) 569-1999

Attorneys for Plaintiff

DATED: November 21, 2019

JS 44 (Rev. 06/17)

JFL

CIVIL COVER SHEET

5:19-cv-5470

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

EUGENE HOLZER

(b) County of Residence of First Listed Plaintiff **NORTHAMPTON**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sidney L. Gold, Esquire

Sidney L. Gold & Assoc., P.C.

1835 Market St., Suite 515 Phila., PA 19103 215-569-1999

DEFENDANTS

PARTY CITY HOLDCO, INC

County of Residence of First Listed Defendant **DELAWARE**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

ADEA, PHRA

Brief description of cause

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.P.

DEMAND \$

150,000.00 in excess

CHECK YES only if demanded in complaint

JURY DEMAND:

☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

NOV 21 2019

DATE

11/21/2019

SIGNATURE OF ATTORNEY OF RECORD

/S/ SIDNEY L. GOLD, ESQUIRE

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JFLUNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**19****5470****DESIGNATION FORM***(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)*

Address of Plaintiff 1090 Greenleaf Drive, Bethlehem, PA 18017

Address of Defendant 601 Baltimore Pike, Springfield, PA 19064

Place of Accident, Incident or Transaction 601 Baltimore Pike, Springfield, PA 19064

RELATED CASE, IF ANY.

Case Number _____ Judge _____ Date Terminated _____

Civil cases are deemed related when **Yes** is answered to any of the following questions.

- | | | | |
|---|---|------------------------------|--|
| 1 | Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2 | Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3 | Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4 | Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE 11/21/2019/s/ Sidney L. Gold, Esq.21374

Attorney-at Law / Pro Se Plaintiff

Attorney ID # (if applicable)

CIVIL: (Place a ✓ in one category only)**A Federal Question Cases**

- ☐ 1 Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2 FELA
- ☐ 3 Jones Act-Personal Injury
- ☐ 4 Antitrust
- ☐ 5 Patent
- ☒ 6 Labor-Management Relations
- ☒ 7 Civil Rights
- ☐ 8 Habeas Corpus
- ☐ 9 Securities Act(s) Cases
- ☐ 10 Social Security Review Cases
- ☐ 11 All other Federal Question Cases
(Please specify) _____

B Diversity Jurisdiction Cases

- ☐ 1 Insurance Contract and Other Contracts
- ☐ 2 Airplane Personal Injury
- ☐ 3 Assault, Defamation
- ☐ 4 Marine Personal Injury
- ☐ 5 Motor Vehicle Personal Injury
- ☐ 6 Other Personal Injury (Please specify) _____
- ☐ 7 Products Liability
- ☐ 8 Products Liability Asbestos
- ☐ 9 All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION*(The effect of this certification is to remove the case from eligibility for arbitration.)*I, **SIDNEY L. GOLD, ESQUIRE**, counsel of record or pro se plaintiff, do hereby certify☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs☒ Relief other than monetary damages is soughtDATE 11/21/2019/s/ Sidney L. Gold, Esq.21374

Attorney-at Law / Pro Se Plaintiff

Attorney ID # (if applicable)

NOV 21 2019

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F R C P 38

JFL**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA****CASE MANAGEMENT TRACK DESIGNATION FORM****19****5470****EUGENE HOLZER****CIVIL ACTION****PARTY CITY HOLDCO, INC****0279****27****NO.**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants (See § 1.03 of the plan set forth on the reverse side of this form). In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255 ()
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2 ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management -- Cases that do not fall into any one of the other tracks ()

11/21/2019**Date**/s/ Sidney L. Gold, Esq.**Attorney-at-law**PLAINTIFF**Attorney for**(215) 569-1999**Telephone**(215) 569-3870**FAX Number**sgold@discrimlaw.net**E-Mail Address**

(Civ. 660) 10/02

NOV 21 2019